



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

959 WRIT PETITION NO. 12275 OF 2023

ARUN DEVIDAS KAMBLE
VERSUS
KIRAN ARUN SAGAR

Ms. M. S. Mhase, Advocate for the petitioner
Mr. R. K. Ashtekar, Advocate for the respondent

CORAM : R. M. JOSHI, J.
DATE : 22nd NOVEMBER, 2024

PER COURT :-

1. This petition takes exception to the order of rejection of Exhibit 5 in R.C.S. No. 131/2020 and consequent rejection of Misc. C.A. No. 80/2022 filed against the said order.

2. The record indicates that the parties are disputing the area admeasuring area 5 x 16 ft which the original plaintiff/ respondent claim it to be the way allotted to him in the sale deed executed by the owner in his favour. As against this, the petitioner/original defendant claims that no such road is shown in any revenue record. To support the contention about of non existence of such road the petitioner also takes aid of his own sale deed which shows that there are two roads from eastern either western side. Thus, it is the contention of the petitioner that respondent

has alternate way.

3. There is no dispute about the fact that is at this stage that the respondent's contention is supported by a register sale deed executed by his vendor in his favour which shows the existence of disputed way. This fact was sufficient for the plaintiff to substantiate his case for seeking injunction against the defendant. In the light of this fact, this Court finds no perversity in the findings recorded by both Courts below.

4. Learned counsel for the petitioner seeks direction to the Trial Court for expeditiously disposal of the suit. Learned counsel for the respondent records no objection. Hence, suit is expedited.

(R. M. JOSHI, J.)

ssp